On 28 July 2012 the President of the Russian Federation signed the law “On Amending the Federal Law “On Production and Consumption Waste” and Article 51 of the Budget Code of the Russian Federation”. This law provides for establishing recycling duties which are payable in respect of cars imported into or manufactured in Russia.

In order to have the law implemented the Ministry of Industry and Trade of the Russian Federation (further, the “Ministry of Industry and Trade”) has elaborated the Draft Recycling Duties Regulation (further, the “Draft”). The foregoing draft law is posted on the web-site of the Ministry of Industry and Trade.

Scope

According to the Draft the duty shall be payable for wheeled vehicles of categories “M” and “N” in respect of which vehicle registration certificates are issued.

The following persons shall be recognized as payers of the duty:

- the persons importing vehicles to Russia;
- the persons manufacturing (producing) vehicles in Russia;
- the persons acquired vehicles in Russia from those persons who did not pay the recycling duties on the grounds specified in the law or the persons failed to pay such duties in breach of the established procedure.

The duty shall not be paid for the following categories of vehicles:

- imported to Russia and belonging to diplomatic missions, consulates, international organizations and employees of such missions, consulates, organizations and members of their families;
- manufactured at least thirty years ago unsuitable for commercial transportation of passengers and/or goods, having genuine engine, body and, if available, frame, preserved or renovated to original condition;
- manufactured (produced) by the organizations voluntarily undertook to ensure safe recycling of the manufactured vehicles;
- imported to Russia from the territories of the Customs Union member states and enjoying status of goods manufactured in the Customs Union: (i) released in the Republic of Belarus (further, the “RB”) or in the Republic of Kazakhstan (further, the “RK”) for domestic consumption with duties payable at the rates that differ from those established by the Common Customs Tariff, or (ii) manufactured in the RB or RK if manufacturing organizations assume obligations similar to those recycling obligations that were assumed by Russian manufacturers;
- in respect of which the customs procedure of a free customs zone is applied in the territory of Kaliningrad Special Economic Zone (further, the “SEZ”), registered in the SEZ and owned by legal entities incorporated in the SEZ, used in order to carry out international transportation of goods, passengers and luggage between the territory of the Kaliningrad Region and the territories of foreign states and the rest of Russia.

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1 http://www.minpromtorg.gov.ru/docs/projects/736
The size of the duty and procedure for its collection

The size of the duty and procedure for its collection shall be determined by the Government of the Russian Federation.

As of the time of issuance of the information letter the Draft of the Recycling Duties Regulation was posted on the web-site of the Ministry of Industry and Trade. In accordance with the Draft:

- the size of the recycling duty shall be calculated by multiplying the basic rate by the coefficient;
- the basic rate equals 20,000 roubles;
- the coefficient depends upon the weight, engine capacity, year of manufacture and other physical characteristics having an impact on the expenses related to the recycling of the vehicle;
- the coefficient with respect to passenger cars falls within the range from 0.15 to 35.01; the same related to commercial, cargo-and-passenger vehicles – from 0.9 to 12.56; the same related to buses – from 1.18 to 8.31;
- the lowest coefficient established for those individuals that import passenger vehicles for personal use: 0.15 in respect of new vehicles and 0.25 in respect of vehicles manufactured more than three years ago as of the time of the recycling duty payment;
- the highest coefficient (35.01) established in respect of passenger cars with engine capacity exceeding 3,500 cm$^3$ manufactured more than three years ago as of the time of the recycling duty payment.

Ensuring duty payment compliance

- Duty payment compliance shall be ensured by means of prohibiting issuance of registration certificates in respect to those vehicles for which the duty was not paid (except those vehicles the manufacturer of which undertook to carry out their recycling or in respect of which the recycling duty is not charged under the law).
- The Ministry of Internal Affairs shall form and maintain the Register of Vehicles in respect of which the recycling duty was paid.

Voluntary obligation of the Company in respect of recycling (according to the Draft)

A manufacturing company may undertake to ensure subsequent safe recycling of waste generated as a result of loss of consumer attributes by the vehicles if it meets the following criteria:

- it is a legal entity incorporated in Russia;
- it places identification number (VIN) on one-piece components of body (cab) or chassis or specially made number plates of a vehicle;
- it manufactures vehicles under the “industrial assembly” regime or cars of categories M, N1, N2, N3 using technologies set out in the Draft.

The Ministry of Industry and Trade is responsible for maintenance of the Register of Manufacturers of Vehicles which Assumed Responsibilities for Voluntary Recycling.

The Company's obligations related to voluntary recycling (according to the Draft):

- to organize stations of collection of vehicles which have lost their consumer attributes in every subject of the Russian Federation, as well as in every settlement with population of five hundred thousand people or more;
- to ensure collection of vehicles which have lost their consumer attributes in stations of collection organized by the Company;
- to ensure delivery of a vehicle from stations of collection to the places where recycling is to be carried out;
- to ensure recycling;
- to inform interested persons and the Federal Service for Supervision of Natural Resource Management about stations of collection including by means of posting the information on its web-site in the Internet.

Please be advised that:

- a manufacturing company or its successor in the event of reorganization shall not be entitled to refuse performance of the assumed obligations;
- in the event of a failure to perform or an improper performance of obligations related to the recycling, a manufacturing company (its successor) shall reimburse losses to the owner (proprietor) of the vehicle.
Enactment of the law

In accordance with Article 3 of Federal Law No. 128-FZ “On Amending the Federal Law “On Production and Consumption Wastes” and Article 51 of the Budget Code of the Russian Federation” of 28 July 2012 the law shall become effective on 1 September 2012. The law does not cover those wheeled vehicles in respect of which vehicle registration certificates are issued before the enactment thereof.

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